

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## OLYMPIANS FOR PUBLIC ACCOUNTABILITY, a non-profit corporation,

CASE NO. C09-5756 BHS

Plaintiff,

V.

## PORT OF OLYMPIA ,

Defendant.

**ORDER DENYING MOTION  
TO STAY DISCOVERY  
PENDING RULING ON  
DISPOSITIVE MOTIONS**

This matter comes before the Court on Defendant's (the "Port") motion to stay discovery pending ruling on dispositive motions. Dkt. 22. The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

## I. FACTUAL AND PROCEDURAL BACKGROUND

Over nine months ago, Plaintiff (the “Olympians”) filed its complaint against the Port in this matter. Dkt. 1. On January 25, 2010, the Olympians amended its complaint. Dkt. 6. On April 2, 2010, the Port moved for a stay of discovery pending ruling on dispositive motions. Dkt. 11. The Port, thereafter moved to withdraw the motion to stay. Dkt. 17.

On August 10, 2010, the Port filed the instant motion renewing its motion to stay discovery pending ruling on dispositive motions. Dkt. 22. On August 23, 2010, the Olympians opposed the motion to stay. Dkt. 25. On August 27, 2010, the Port replied. Dkt. 27.

## II. DISCUSSION

The Port moves the Court to stay discovery in this matter pending the Court's ruling on the Port's motion to dismiss. *See* Dkt. 22. Generally, "it is sounder practice to determine whether there is any likelihood that plaintiffs can construct a claim before forcing the parties to undergo the expense of discovery." *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729.

However, the Port has not filed a motion to dismiss or any other dispositive motion, for that matter. While the Port has promised a motion to dismiss would be forthcoming “by no later than August 18, 2010” and that the Port would expound on its claims that the matter should be dismissed within such a motion, the Port has filed no such motion. Dkt. 22 at 1 (promising a motion to dismiss).

As the Olympians rightly point out, the Port has had ample time and opportunity to file such a dispositive motion with the Court. The Olympians are also correct that the expert disclosure deadline (October 4, 2010) is fast approaching. *See* Dkt. 19 (minute order setting trial and pretrial dates). Considering the deadlines in this case, a stay of discovery will hamper the Olympians' ability to prepare for trial, which is prejudicial. *See* Dkt. 25 at 4.

Because the Port has not moved for dismissal and because of the rapidly approaching deadline, good cause has not been shown to stay discovery in this matter.

### III. ORDER

Therefore, it is hereby **ORDERED** that the Port's motion to stay discovery pending a ruling on dispositive motions (Dkt. 22) is **DENIED**.

DATED this 15<sup>th</sup> day of September, 2010.

  
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**BENJAMIN H. SETTLE**  
United States District Judge